

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

10-30-07  
02:10 PM

In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates

A.04-09-019

**JOINT MOTION TO ADOPT THE SETTLEMENT AGREEMENT BETWEEN  
CALIFORNIA-AMERICAN WATER COMPANY AND THE DIVISION OF  
RATEPAYER ADVOCATES**

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Attorneys for Applicant  
CALIFORNIA-AMERICAN WATER  
COMPANY

Dated: October 30, 2007

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The parties to this Settlement Agreement are the Division of Ratepayer Advocates (“DRA”) and California-American Water Company (“California American Water,” collectively, “the Parties”). The Parties, desiring to avoid the expense, inconvenience and the uncertainty attendant to litigation of the matters in dispute between them have agreed on this Settlement Agreement which they now submit for approval.

The Parties have agreed on a resolution of each of the issues set forth in the accompanying Settlement Agreement (attached as Exhibit A) which they now submit for adoption pursuant to Article 12 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”).

In particular, the Parties represent to the Commission as follows:

- a) That this Settlement Agreement commands the sponsorship of the Parties;
- b) That the Parties are fairly representative of affected interests;<sup>1</sup>

<sup>1</sup> Representatives of California American Water and DRA appeared at the July 24 settlement conference. The Settlement Agreement addresses disputed issues between DRA and California American Water.

c) That this Settlement Agreement together with the record in this proceeding conveys to the Commission sufficient information to permit the Commission to discharge its regulatory obligations with respect to the Parties and their interests; and

d) This Settlement Agreement is reasonable in light of the entire record, consistent with the law, and in the public interest, consistent with Rule 12(d).

## **I. BACKGROUND**

In Decision (“D.”) 06-12-040, the Commission authorized California American Water’s proposed Special Request 1 Surcharge to recover through customer contributions the Coastal Water Project preconstruction costs that California American Water is tracking in the memorandum accounts approved in D.03-09-022.<sup>2</sup> The Commission allowed California American Water to begin collecting customer contributions through Surcharge #1 in January 1, 2007, and continue until the full amount authorized for preconstruction costs is collected. The Commission directed that California American Water’s 2005 engineering and environmental costs related to the Coastal Water Project, along with 2006 preconstruction costs, be reviewed for reasonableness for a Commission decision by year-end 2007.

In the earlier phase of the proceeding, California American Water submitted evidence in support of its previously requested engineering and environmental costs incurred through 2005. While the Commission found that California American Water had provided the Commission with a complete showing to support its request for all costs incurred for the Coastal Water Project through 2005, the Commission deferred its authorization of California American Water’s engineering and environmental costs incurred through 2005 to give DRA time to hire a consultant to assist it in conducting its reasonableness review of these costs.<sup>3</sup> The Commission

<sup>2</sup> D.06-12-040, *In re Application of California-American Water Company for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates*, 2006 Cal. PUC LEXIS 422.

<sup>3</sup> The Commission deferred review of \$5,670,073 in engineering and environmental costs that  
(continued...)

directed California American Water to submit its report on the reasonableness of its 2006 preconstruction costs no later than March 31, 2007.

On March 30, 2007, California American Water filed its *Report on the Reasonableness of California-American Water Company's Coastal Water Project Preconstruction Costs Incurred Through 2006*, together with supporting testimony in Exhibits A through F, to renew its request for recovery of the Coastal Water Project engineering and environmental costs incurred through 2005 and to demonstrate that its engineering and environmental costs, public outreach costs, legal fees and miscellaneous charges incurred in 2006 were prudent and necessary for the Coastal Water Project. On June 11, 2007, California American Water submitted supplemental direct testimony by Thomas J. Bunosky to remove \$795,876 of engineering-related expenses from California American Water's request for recovery of costs incurred for the Coastal Water Project through 2006 after DRA brought the duplication to California American Water's attention. California American Water served corrections to its Report and supporting testimony..

On July 10, 2007, DRA submitted its *Audit Report on Cal Am's Coastal Water Project 2006 Preconstruction Costs* and its *Review of 2005 and 2006 Preliminary Engineering and Environmental Costs for the Coastal Water Project*. DRA reviewed California American Water's 2006 preconstruction expenses to determine if they were properly accounted for and found no material audit adjustment to the preconstruction costs as reflected in California American Water's June 28, 2007 supplemental testimony. DRA also reviewed California American Water's 2005 and 2006 preliminary engineering and environmental costs to determine if studies were duplicative to those performed by other agencies and if expenses were excessive or reasonable. DRA concluded that while the majority of the studies California American Water performed were not duplicative, California American Water's ASR study was duplicative of

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(continued...)  
are subject to this request. See D.06-12-040, \*2.

previous studies performed for the Monterey Peninsula Water Management District (“MPWMD”) as part of its ASR efforts.

## **II. ARGUMENT**

### **A. This Settlement Agreement is reasonable in light of the entire record.**

This Settlement Agreement is reasonable in light of the entire record. The terms proposed in the Settlement Agreement are just and reasonable. The Parties believe the changes to the Parties’ position set forth in the Settlement Agreement are justified. The Parties have agreed that the Commission should authorize California American Water to transfer \$9,312,664 of costs incurred for the Coastal Water Project through December 31, 2006 from the authorized memorandum accounts to the Surcharge #1 cost recovery balancing account. As set forth in the Settlement Agreement, this amount reflects a decrease to California American Water’s originally requested Coastal Water Project preconstruction costs through 2006, in addition to the \$795,876 of engineering-related expenses already removed by California American Water through supplemental testimony. In addition, as part of the Settlement Agreement, California American Water has agreed to provide additional assurances to the Commission and all parties to this proceeding by submitting a report within 90 days of a final Commission decision, that demonstrates that California American Water is not seeking to recover via Surcharge #1 certain costs (Monterey District Labor and related costs for 2006 and beyond) that have been recovered through a general rate case application.

Furthermore, the extensive record supports the attached Settlement Agreement. As part of this proceeding, California American Water submitted its Report and extensive supporting testimony, which contain an explanation of the costs for which California American Water seeks recovery, and in many cases, supporting invoices or a description of the specific activity, the service time period, the nature of the work conducted by the vendor, and invoice data.

**B. This Settlement Agreement is consistent with applicable law and in the public interest.**

The Settlement Agreement is also consistent with applicable law and in the public interest. The Parties believe the preconstruction costs set forth in the Settlement Agreement were properly incurred in the pursuit of a long-term water supply solution to satisfy the regulatory requirements of State Water Resources Control Board Order 95-10 and the Seaside groundwater adjudication.

Moreover, the Parties agree that resolving this matter short of evidentiary hearings is in the public interest. Should the proceeding continue to full evidentiary hearings on the merits to address the costs incurred by California American Water for the Coastal Water Project through 2006, both parties would need to invest additional time and resources. The Parties believe the Settlement Agreement will serve the public interest by avoiding the uncertainty inherent in litigation and resolving the issues in this proceeding in a manner acceptable to the Parties. Moreover, this Settlement Agreement further benefits ratepayers because the Parties will be able to save valuable time and resources that would have been expended (and passed on to customers) to litigate these issues.

As required by the Commission's Rules of Practice and Procedure, the Parties properly noticed and held a settlement meeting on July 24, 2007.<sup>4</sup>

### **III. CONCLUSION**

WHEREFORE, the parties request that the Commission adopt the accompanying Settlement Agreement in its entirety as a complete resolution of the issues set forth therein.

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<sup>4</sup> Pursuant to Rule 12.1(b) of the Rules of Practice and Procedure, on July 16, 2007, California American Water provided notice of the July 24, 2007 settlement conference, which was held at 11:00 a.m. in Conference Room 4206 at the Commission, located at 505 Van Ness Avenue, San Francisco, California.

Respectfully submitted,

By: /s/ Monica L. McCrary  
Monica L. McCrary

Attorneys for DIVISION OF RATEPAYER  
ADVOCATES

Dated: October 30, 2007

Respectfully submitted,

By: /s/ Sarah E. Leeper  
Sarah E. Leeper

Attorney for Applicant  
CALIFORNIA-AMERICAN WATER  
COMPANY

Dated: October 30, 2007

# **EXHIBIT A**



**BEFORE THE PUBLIC UTILITIES COMMISSION  
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COMPANY AND THE DIVISION OF RATEPAYER ADVOCATES**

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Attorneys for Applicant  
California-American Water Company

Dated: October 30, 2007

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A. 04-09-019

**SETTLEMENT AGREEMENT BETWEEN CALIFORNIA-AMERICAN WATER  
COMPANY AND THE DIVISION OF RATEPAYER ADVOCATES**

**1. GENERAL**

1.1 The Parties to this Settlement Agreement before the California Public Utilities Commission ("Commission") are California-American Water Company ("California American Water") and the Division of Ratepayer Advocates ("DRA," collectively, "the Parties"). The Parties, desiring to avoid the expense, inconvenience and the uncertainty attendant to litigation of the matters in dispute between them have agreed on this Settlement Agreement, which they now submit for approval.

1.2 Since this Settlement Agreement represents a compromise by them, the Parties have entered into each Stipulation contained in the Settlement Agreement on the basis that its approval by the Commission not be construed as an admission or concession by any Party regarding any fact or matter of law in dispute in this proceeding. Furthermore, the Parties intend that the approval of this Settlement Agreement by the Commission not be construed as a precedent or statement of policy of any kind for or against any Party in any current or future proceeding. (Rule 12.5, Commission's Rules of Practice and Procedure.)

1.3 The Parties agree that no signatory to the Settlement Agreement assumes any personal liability as a result of their agreement. All rights and remedies of the Parties are limited to those available before the Commission.

1.4 The Parties agree that this Settlement Agreement is an integrated agreement, so that if the Commission rejects any portion of this Settlement Agreement, each Party has the right to withdraw.

1.5 This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, and the counterparts together shall constitute one and the same instrument.

1.6 Resolution of the differences between California American Water's and DRA's original estimates resulted in either DRA or California American Water moving from its original position to concur in whole or in part with the other's position. Many stipulated items are the consequence of additional discussions between the Parties leading to a compromise of positions, the overall results of which led to agreements in amounts between California American Water's original estimates and DRA's original estimates.

## **2. EXPENSES**

2.1 The Parties agree that the Commission should authorize California American Water to transfer \$9,312,664 of costs incurred for the Coastal Water Project through December 31, 2006 from the authorized memorandum accounts to the Surcharge #1 cost recovery balancing account. This amount reflects disallowances totaling \$104,709, described below.

2.2 The Parties agree that the \$4,707 stated by DRA as potential duplicative invoices are in fact duplicate invoice charges and therefore should reduce California American Water's request for recovery.

2.3 As a compromise, the Parties agree that the \$126,107 in charges from ASR Systems and Derrik Williams for the ASR studies through 2005 should be reduced by sixty percent. This equals a reduction in California American Water's recovery of \$75,665.

2.4 In an effort to reach settlement, DRA and California American Water agree that ten percent, or \$16,025, of the RBF's Task 4: Permitting and Agency Co-ordination costs should be disallowed.


2.5 The Parties agree that the abovementioned reductions of \$96,397 will necessarily reduce California American Water's AFUDC request by \$8,312. This reduction in AFUDC, combined with the other reductions in expenses, equals a total adjustment of \$104,709 to California American Water's request.

2.6 The Parties agree that the \$9,312,664 referenced above shall constitute the entirety of California American Water's recovery of Coastal Water Project preconstruction costs incurred through December 31, 2006 which were or could have been recovered in *California American Water's Report on the Reasonableness of Coastal Water Project Preconstruction Costs Incurred Through 2006*. Nothing in this agreement affects California American Water's ability to recover preconstruction costs incurred for the Coastal Water Project after December 31, 2006 and tracked in the memorandum accounts approved in D.03-09-022.

### **3. COMPLIANCE**

3.1 California American Water shall submit a report to the Commission and all parties to this proceeding, within 90 days of the decision approving this settlement, that demonstrates Monterey District Labor and related costs, for 2006 and beyond, which California American Water seeks to recover via Surcharge #1, have not been recovered through other mechanisms, such as a general rate case application. If DRA determines that this report provides insufficient information to conclude that the above mentioned costs have not been recovered through other mechanisms, DRA reserves the right to protest the sufficiency of the report in the upcoming General Rate Case for California American Water.

Respectfully submitted,

By:   
Dana Appling, Director  
DIVISION OF RATEPAYER ADVOCATES  
California Public Utilities Commission  
505 Van Ness Avenue, Room 5122  
San Francisco, CA 94102-3298

October 30, 2007

Respectfully submitted,

By: \_\_\_\_\_  
David P. Stephenson, Assistant Treasurer  
CALIFORNIA-AMERICAN WATER  
COMPANY  
4701 Beloit Drive  
Sacramento, CA 95838

October 30, 2007

Respectfully submitted,

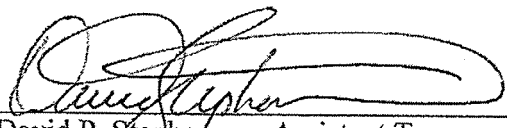
By: \_\_\_\_\_

Dana Appling, Director  
DIVISION OF RATEPAYER ADVOCATES  
California Public Utilities Commission  
505 Van Ness Avenue, Room 5122  
San Francisco, CA 94102-3298

October \_\_, 2007

Respectfully submitted,

By: \_\_\_\_\_

  
David P. Stephenson, Assistant Treasurer  
CALIFORNIA-AMERICAN WATER  
COMPANY  
4701 Beloit Drive  
Sacramento, CA 95838

October 30, 2007

**PROOF OF SERVICE**

I, Michelle Chavez, declare as follows:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years, and not a party to the within cause; my business address is STEEFEL, LEVITT & WEISS, One Embarcadero Center, 30th Floor, San Francisco, California 94111-3719. On October 30, 2007, I served the within:

***Joint Motion to Adopt the Settlement Agreement Between California-American Water Company and the Division of Ratepayer Advocates***

on the interested parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

***Please see attached Service List***

- ☒ **(BY PERSONAL SERVICE)** By causing such envelope to be delivered by hand, as addressed by delivering same to SPECIALIZED LEGAL SERVICES with instructions that it be personally served.
- ☒ **(BY PUC E-MAIL SERVICE)** By transmitting such document electronically from Steefel, Levitt & Weiss, San Francisco, California, to the electronic mail addresses listed above. I am readily familiar with the practice of Steefel, Levitt & Weiss for transmitting documents by electronic mail, said practice being that in the ordinary course of business, such electronic mail is transmitted immediately after such document has been tendered for filing. Said practice also complies with Rule 2.3(b) of the Public Utilities Commission of the State of California and all protocols described therein.
- ☒ **(BY MAIL)** By placing such document(s) in a sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Steefel, Levitt & Weiss, San Francisco, California following ordinary business practice. I am readily familiar with the practice at Steefel, Levitt & Weiss for collection and processing of correspondence for mailing with the United States Postal Service, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 30, 2007 at San Francisco, California.

\_\_\_\_\_  
*/s/ Michelle Chavez*  
Michelle Chavez

**PUC Service List- A.04-09-019**  
**[Updated October 2, 2007]**

**VIA HAND DELIVERY:**

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**[Updated October 2, 2007]**

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